

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DYNA-DRILL TECHNOLOGIES, INC	§	
and	§	
MICHAEL SPECKERT,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. H-03-5599
	§	
KENNAMETAL, INC.	§	
d/b/a	§	
CONFORMA CLAD INC.,	§	
	§	
Defendant.	§	

MEMORANDUM AND ORDER

Pending before the Court is Plaintiffs' motion to clarify and/or amend the protective order entered in this action. Plaintiffs argue that strict enforcement of the agreement, which requires the destruction by each party of all confidential materials produced by any opposing party, will deprive Plaintiffs of the ability effectively to defend against future actions against them by Defendant. Plaintiffs ask that the Court either (1) rule that the protective order does not apply to litigation materials such as trial and deposition transcripts and exhibits or (2) require the parties to deposit all such materials with a mutually agreeable escrow service for a period of ten years, the cost of which service should be borne by the parties equally.

After considering the parties' filings, the Court finds that the protective order does not include an exception for litigation materials. Because the courtroom was closed during trial and all exhibits were sealed, however, the parties' copies of the litigation materials may well be the only copies of those materials in existence. Accordingly, the Court finds that Plaintiffs' motion, Docket No. 330, should be and hereby is **GRANTED**

IN PART and **DENIED IN PART**. Upon Plaintiffs' expression of their agreement to bear the cost of escrow, the parties are hereby **ORDERED** to deposit all litigation materials with a mutually agreeable escrow service for a period of ten years.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 24th day of February, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**